

Title 9

PUBLIC PEACE, MORALS AND WELFARE

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* For statutory definitions and prohibitions of gambling, see Pen. Code § 330, et seq.; for definitions and prohibition of lotteries, see Pen. Code § 335a, et seq.; for prohibition of bookmaking, see Pen. Code § 337a.

9.12.010 Gambling prohibited.

A. Every person, firm, corporation or association who, for profit, or for anything of value or for commercial purpose of any nature, keeps, operates, conducts or maintains, either directly or indirectly, within the city any house, room, apartment, dwell-

ing place, building, premises or other place where any game, gambling or gaming not mentioned or included in Section 330 or 330a of the Penal Code of the state of California is played, conducted, dealt or carried on, whether with cards, dice, or any other device of whatsoever nature, for money, checks, credit, merchandise or other representative of value shall be guilty of a misdemeanor.

B. Every person, firm, corporation or association, either as owner, lessor, lessee, principal, agent, employee or participant or otherwise, who maintains or keeps or operates or conducts directly or indirectly in whole or in part, or who directly or indirectly is in possession in whole or in part of, any house, room, apartment, dwelling place, building, premises, or other place upon or in which any gambling, games or gaming prohibited in this section are played, conducted, dealt or carried on, and who imposes or collects a fee or anything of value for the privilege of participating in any way whatsoever in any such games, gambling or gaming, or who directly or indirectly gains or receives anything of value or any financial profit from playing, conducting or dealing any such games, gambling or gaming, shall, for the purposes of this chapter, be deemed to be keeping, conducting, operating and maintaining the same for profit or commercial purposes. (Ord. 2265 § 3, 1988; Ord. 1695 § 1, 1976; prior code § 20.21).

9.12.020 Exceptions.

The provisions of CVMC 9.12.010 shall not apply to:

A. Occasional private card games, otherwise lawful, carried on for purely social purposes in a private home.

B. Otherwise lawful card games carried on pursuant to a license issued under Chapter 5.20 CVMC.

C. Otherwise lawful card games carried on pursuant to a license issued under Chapter 9.11 CVMC. (Ord. 2265 § 3, 1988; prior code § 20.22).

9.12.030 Free games to entice players prohibited.

It is unlawful for any person to set up, manage, conduct or maintain any combination of games, machines, or enterprises wherein games of chance and games of skill are alternated or played in any sequence with each other so that free games are used to entice or allure players into the playing for a consideration of paid games of skill or paid games combining the element of chance with the element of skill. (Prior code § 20.23).

9.12.040 Certain games specifically prohibited.

The provisions of CVMC 9.12.010 through 9.12.030 are intended to prohibit the playing of "bingo," "tango," "bridgo," "panguingue," "skill ball," or any game or combination of games similar in operation to such games, and to apply to the free as well as to the paid playing of such games; provided, however, that the game of bingo, as conducted under the laws of the state of California, is hereby exempted from the prohibitions contained herein. (Ord. 1695 § 1, 1976; Ord. 1015 § 1, 1966; prior code § 20.24).

9.12.080 Provisions supplemental to state law.

The provisions of this chapter are not intended to conflict with but shall supplement all laws of the state prohibiting lotteries, gaming, or gambling, and these provisions must be invoked by all law enforcement officers whose duty it is to enforce the laws of the state against lotteries, gaming or gambling, when, by operation of this chapter, the use, ownership or possession of any such game or mechanical device or contrivance is prohibited by this chapter but might not be prohibited by the laws of the state. (Ord. 1945 § 1, 1981; prior code § 22.4).

9.12.110 Machines exempt from applicability.

It is further expressly provided that this chapter does not apply to music machines; weighing machines; coin-operated machines or devices used by small children to receive rides thereupon, and which ordinarily are in the form of horses, fire engines, space machines, circuses and the like; any motion picture machine; any game of skill in which the direction and speed of the principal components of the game are manually controlled by the player, and where any mechanical operation in connection with the game is purely incidental thereto; and merchandise vending machines in which there is deposited an exact consideration and in which in every case the customer obtains that which he purchases. (Prior code § 22.7).

9.12.120 Bingo – Authorized.

Notwithstanding any other provisions of this chapter, the ordinance codified in this section is adopted pursuant to Section 19 of Article IV of the California Constitution in order to make the game of bingo lawful under the terms and conditions in CVMC 9.12.130 through 9.12.240. (Ord. 1695 § 2, 1976).

9.12.130 Bingo – Definitions.

Whenever, in CVMC 9.12.120 through 9.12.240, the following terms are used, they shall have the meaning respectively ascribed to them in this section:

A. "Bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. Bingo shall also include cards having numbers or symbols which are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game.

B. "Nonprofit charitable organization" means an organization exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l and 23701w of the Revenue and Taxation Code, and by mobilehome park associations, senior citizen organizations and charitable organizations affiliated with a school district; and provided, that the receipts of such games are used only for charitable purposes.

C. "Remote caller bingo," a type of bingo game authorized by California Penal Code Sections 326.3 and 326.4, may be lawfully played in the City of Chula Vista pursuant to state law and this chapter and not otherwise. Nonprofit charitable organizations identified in subsection (B) of this section must provide proof to the Chief of Police that they are licensed pursuant to Penal Code Sections 326.3 and 326.4 prior to engaging in remote caller bingo. (Ord. 3177 § 1, 2010; Ord. 1987 § 1, 1982; Ord. 1895 § 1, 1980; Ord. 1763 § 1, 1977; Ord. 1695 § 2, 1976).

9.12.140 Bingo – License required.

It shall be unlawful for any person to conduct any bingo games in the city unless such person is a member of a nonprofit charitable organization acting on behalf of such nonprofit charitable organization, and has been issued a license as provided by this chapter. (Ord. 1695 § 2, 1976).

9.12.150 Bingo – Application.

Application for license shall be made to the chief of police on forms prescribed by the chief of police. The chief of police shall have a reasonable time in which to investigate the application and background of the applicant prior to the proposed date of the bingo game or games. Such application

form shall require from the applicant at least the following:

A. A list of all members who will operate the bingo game, including the full name of each member, date of birth, place of birth, physical description and driver's license number;

B. The date(s) and place(s) of the proposed bingo game or games;

C. Proof that the organization is a nonprofit charitable organization as defined by CVMC 9.12.130;

D. Concurrently, with the filing of an application for a bingo license, each applicant shall file a

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statement specifying the name and address of one person who shall manage, supervise, and be responsible for the conduct of all bingo games by the applicant. The person, who shall be known as the bingo chairperson, shall sign a statement accepting such responsibility. The applicant, in addition to the bingo chairperson, shall file a statement specifying the names of not more than three persons who shall be known as bingo co-chairpersons. The bingo co-chairpersons shall assist the bingo chairperson in the performance of his/her duties, as directed by the chairperson. The bingo chairperson or his designated co-chairperson shall be present on the premises at all times during which bingo games are conducted;

E. Each organization that holds a bingo license shall conduct its bingo games independent of any other organization which also holds a bingo license. (Ord. 2175 § 2, 1986; Ord. 1987 § 1, 1982; Ord. 1695 § 2, 1976).

9.12.160 Bingo – Term of license and fees.

A. The term of a bingo license is one year and may be renewed for a period of one year upon payment of the required fee(s) and application therefor.

B. For a new license application or for each change in the bingo chairpersons who will manage the bingo game, there shall be a fee for investigation and for processing the applicant's fingerprints. The required fee(s) shall accompany the submission of each application. In the event an application is denied, 50 percent of the investigation fee shall be refunded. (Ord. 2692 § 1, 1996; Ord. 2547 § 3, 1993; Ord. 1987 § 1, 1982; Ord. 1763 § 1, 1977; Ord. 1695 § 2, 1976).

9.12.170 Bingo – Application investigation.

A. Upon receipt of an application for a license, the chief of police may send copies of such application to any office or department which the chief of police deems essential in order to carry out a proper investigation of the applicant.

B. The chief of police and every officer and/or department to which an application is referred shall investigate the truth of the matters set forth in the application and the character of the applicant, and may examine the premises to be used for the bingo game.

C. Upon approval of any application for a bingo license, the chief of police shall issue the license. (Ord. 1695 § 2, 1976).

9.12.180 Bingo – License not transferable.

Each license issued hereunder shall be issued to a specific person on behalf of a specific nonprofit charitable organization to conduct a bingo game at a specific location and shall in no event be transferable from one person to another, nor from one location to another. (Ord. 1695 § 2, 1976).

9.12.190 Bingo – Limitations.

A. A nonprofit charitable organization shall conduct a bingo game only on property which is both owned or leased by it and used by such organization for an office or for the performance of the purposes for which the organization is organized, and the organization has been at such location for one year prior to the application for a license pursuant to this chapter. Each organization applying for a bingo license shall have a primary reason for the organization's existence other than the playing of bingo.

B. No minors shall be allowed to participate in any bingo game.

C. All bingo games shall be open to the public, not just to the members of the nonprofit charitable organization.

D. A bingo game shall be operated and staffed only by members of the nonprofit charitable organization which organized it, and none shall receive a profit, wage or salary from any bingo game, including any free or discounted play of any bingo game. This subsection does not preclude the employment of security personnel, who are not members of the authorized organization, at such bingo game by the organization conducting the game. Such members during operation of any bingo game shall wear on his or her outside clothing, in plain view, at chest height, an identification badge or device, measuring not less than three square inches in area of any shape, clearly specifying the name of the licensed organization and either the full name of the person wearing such identification or a number corresponding to the registration of such employee or member held by the licensed organization. The employee or members while managing, supervising or conducting any bingo game shall not be allowed to participate as a player in any bingo game. Only the organization authorized to conduct a bingo game shall operate such game or participate in the promotion, supervision or any other phase of such game.

E. No individual, corporation, partnership or other legal entity except the organization authorized to conduct a game shall hold a financial interest in the conduct of such bingo game.

F. With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such profit shall be used only for charitable purposes.

G. With respect to other organizations authorized to conduct bingo games pursuant to Section 23701 of the Revenue and Taxation Code, except 23701d of the Revenue and Taxation Code, proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. "Proceeds" are the receipts of bingo games conducted by organizations not within subsection (F) of this section. Such proceeds shall be used only for charitable purposes, except as follows:

1. Such proceeds may be used for prizes;

2. A portion of such proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or \$1,000 per month, whichever is less, may be used for rental of property and overhead including the purchase of bingo equipment, administrative expenses, security equipment and security personnel;

3. Such proceeds may be used to pay license fees.

H. No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place in which the bingo game is being conducted.

I. The total value of prizes awarded during the conduct of any bingo game shall not exceed \$500.00 in cash or kind, or both, for each separate game that is held.

J. No bingo game shall be conducted between the hours of midnight and 8:00 a.m.

K. No bingo game shall be conducted by an organization on more than three days out of seven calendar days.

L. No chairperson shall knowingly permit a person who is intoxicated and unable to exercise care for his safety or the safety of others to participate in or wander about any bingo game.

M. All disbursements from the bingo account shall be by consecutively numbered checks signed by two authorized officers of the licensee and shall be made payable to a specific individual or organization. There shall be written on each check the nature of the expenditure for which the check is drawn. No check shall be drawn to "cash" or a fictitious payee.

N. A record of all donations and/or sales of bingo playing cards shall be maintained and kept on file in the bingo office with the financial statement for inspection purposes.

O. Within 30 days after any bingo game is held, the licensee shall file with the director of public safety a full and complete financial statement, using a form(s) approved by the director of finance, of all moneys collected or disbursed and the amount remaining for charitable purposes, or if the licensee conducts single games on an on-going basis, the licensee shall file a monthly statement due 30 days after the end of each month. The director of public safety shall have the power to inspect all books, records, and papers of the nonprofit charitable organization which pertain to the operation of the bingo games.

P. No admission fee, purchase or donation shall be required for entry into the bingo premises. This section shall not preclude no-smoking tables and tables designated for the handicapped.

Q. Attendance Limited to Occupancy Capacity. Notwithstanding that bingo games are open to the public, attendance at any bingo game shall be limited to the occupancy capacity of the room in which such game is conducted, as determined by the fire department in accordance with applicable laws and regulations. Signs shall be posted showing what the occupancy capacity of such room is.

R. No alcoholic beverages shall be served or consumed during the hours of bingo operation in the bingo hall.

S. Use of Credit Prohibited. No licensee shall issue chips or money to a patron on credit or loan (including but not limited to IOUs and checks to be held), or allow any patron to play on credit.

T. Proceeds – Counting Procedures. The bingo chairperson or his/her designated co-chairperson and one other member of the licensed organization shall jointly count all bingo proceeds and both shall sign a statement of their count which shall become a permanent record maintained in the bingo files.

U. Cost, Prizes and Rules – Posting Required. The licensee shall post the cost, prizes, and rules of each game to be played. Such signs shall be posted in plain view in a conspicuous place during the conduct of the bingo game, or on the program provided to the player.

V. Posting of License. An organization licensed pursuant to this chapter shall not conduct or permit to be conducted a bingo game unless the license is posted at the public entrance in a conspicuous place during the conduct of any bingo game.

W. No bingo organization shall maintain a "net remaining balance" of more than \$8,000 at the end of any given calendar month.

X. Any bingo organization which has its license permanently suspended or revoked or does not renew its license shall expend all remaining moneys in either its savings or cash on hand or checking account within 30 days, and those accounts shall be closed immediately. All remaining moneys shall go to charity. A financial report shall be submitted to the director of public safety showing the expenditures of all remaining cash.

Y. It shall be unlawful to call or post any bingo letter or number unless the letter or number on the object drawn is displayed to the assemblage in such a manner that the letter or number is visible to such assemblage.

Z. All bingo cards presented for winnings shall be verified by a third party. Such verification shall be made prior to the beginning of the next bingo game.

AA. All winners of individual bingo games shall be recognized by the person calling the letters or numbers as winning that game when they call "bingo" and raise their hand. If more than one person is recognized as a verified winner, they shall share the winnings equally.

BB. Charitable Contributions. Organizations authorized to conduct bingo games pursuant to Section 23701 of the Revenue and Taxation ("R&T") Code, except 23701d of the R&T Code, shall contribute 10 percent of their gross income to charity each month.

CC. A yearly financial statement shall be filed with the director of public safety by the chairperson of each bingo organization, at the end of each calendar year, in addition to the monthly financial statement. (Ord. 3157 § 1, 2010; Ord. 2175 § 1, 1986; Ord. 1987 § 1, 1982; Ord. 1695 § 2, 1976).

9.12.200 Bingo – Inspection.

Any peace officer of the city shall have free access to any bingo game licensed under this chapter. The licensee shall have the bingo license and lists of approved staff available for inspection at all times during any bingo game. (Ord. 1695 § 2, 1976).

9.12.210 Bingo – Application denial, license suspension and/or revocation.

A. The chief of police may deny an application for a bingo license, or suspend or revoke a license, if he finds the applicant or licensee or any agent or representative thereof has:

1. Knowingly made any false, misleading or fraudulent statement of a material fact in the application or in any record or report required to be filed under this chapter; or

2. Violated any of the provisions of this chapter.

B. If after investigation the chief of police determines that a bingo license should be suspended or revoked, or an application for such license denied, he shall prepare a notice of suspension, revocation or denial of application, setting forth the reasons for such suspension, revocation or denial of application. Such notice shall be sent by certified mail to the applicant's last address provided in the application or shall be personally delivered. Any person who has had an application for a bingo license denied by the chief of police, or who has had a bingo license suspended or revoked by the chief of police, may appeal the chief of police's decision in the manner provided in Chapter 1.40 CVMC to the city manager. (Ord. 2718 § 1, 1998; Ord. 1695 § 2, 1976).

9.12.220 Bingo – Appeal procedure.

Repealed by Ord. 2718 § 1, 1998. (Ord. 1695 § 2, 1976).

9.12.230 Bingo – Violations and penalties.

A. It is unlawful for any person, other than employed security personnel who are not members of the authorized organization, to receive a profit, wage or salary from any bingo game authorized by this chapter.

B. Any person violating any of the provisions or failing to comply with any of the requirements of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed \$500.00, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

C. All sanctions provided herein shall be cumulative and not exclusive. (Ord. 1987 § 1, 1982; Ord. 1695 § 2, 1976).

9.12.240 Bingo – Severability.

If any provision, clause, sentence, or paragraph of CVMC 9.12.120 through 9.12.230 or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of CVMC 9.12.120 through 9.12.230 which can be given effect without the invalid provision or application, and to this end the provisions of CVMC

9.12.120 through 9.12.230 are hereby declared to be severable. (Ord. 1695 § 2, 1976).

9.12.250 Casino parties – License required.

A. It shall be unlawful for any person to conduct any casino party in the city of Chula Vista unless such person is a member of a nonprofit charitable organization, as defined in this section, acting on behalf of such nonprofit charitable organization and such organization has been issued a license as provided by this section.

B. The operation of any casino party without a license or failure to operate in full compliance with all provisions of this section shall be grounds for all casino equipment to be seized and held by the police department of the city of Chula Vista. (Ord. 2253 § 1, 1988).

9.12.260 Casino parties – License not transferable.

Each license issued hereunder shall be issued to a specific individual on behalf of a nonprofit charitable organization to conduct a casino party at a specific location and on one specific date and shall in no event be transferred from one person to another nor from one location or date to another. (Ord. 2253 § 1, 1988).

9.12.265 Casino parties – Limit of two in one year.

No individual organization may conduct more than two casino parties in one calendar year. (Ord. 2253 § 1, 1988).

9.12.270 Casino parties – Definitions.

For the purpose of this section, the following words and phrases shall mean:

A. "Casino party" shall mean any event at which the public is permitted or invited to play games of chance as are listed in Section 330 of the California Penal Code and which are played for no consideration.

B. "Nonprofit charitable organization" shall mean any organization exempted from the payment of the bank and corporation tax by Section 23701(d) and (f) and business leagues and chambers of commerce which are exempted under Section 23701(e) of the Revenue and Taxation Code.

C. "Casino manager" shall mean the individual who shall manage, supervise, and be responsible for the conduct of the event.

D. "Donation" shall mean a free contribution of any tangible item, goods, wares, merchandise,

money, cash, consideration, services or any other thing of value.

E. "Minor" shall mean any person under the age of 18 years.

F. "Volunteer" shall mean a person who offers his services without wages, salary or reimbursement while having no legal concern or interest.

G. "Chips" or "scrip" shall mean simulated paper currency or tokens having no face value.

H. "Advertisement" shall mean any printed material, flyers, signs, pamphlets, leaflets, handbills, verbal broadcasting, or any other method normally utilized to call something to the attention of the public.

I. "Raffle" or "lottery" shall mean any scheme for the disposal or distribution of property or merchandise by chance for no consideration. (Ord. 2253 § 1, 1988).

9.12.280 Casino parties – Application, fee.

An application for a casino party shall be made to the chief of police on forms prescribed by the chief of police not less than 15 days prior to the proposed date of the party. The application shall be accompanied by the required fee(s). The application for a casino party shall contain at a minimum the following:

A. A list of all volunteers who will operate the casino games or devices, including the full names of each volunteer, date of birth, place of birth, physical description, home address and home telephone number.

B. Name and address of company or individual that will be furnishing casino equipment or devices.

C. The date, hours of the date, and place of the proposed casino party.

D. Casino Manager. Concurrently with the filing of an application for a casino party license, each applicant shall file a statement specifying the name and address of two persons who shall manage, supervise and be responsible for the conduct of the casino party. The casino managers shall be present on the premises at all times during which a casino party is being conducted. (Ord. 2547 § 4, 1993; Ord. 2253 § 1, 1988).

9.12.290 Casino parties – Application investigation.

Upon receipt of an application for a license, the chief of police shall make an investigation of the applicant. The chief of police may send copies of such application to any office or department which the chief of police deems essential in order to conduct a proper investigation of the applicant.